

Farmer's Market Guidelines



This guideline is intended for use by local sanitarians and farmer's market managers to help answer questions and provide guidance for the operation of farmer's markets.

Revised May 2012

State law defines Farmer's Markets as "a farm premises, a roadside stand owned and operated by a farmer, or an organized market authorized by the appropriate municipal or county authority" [MCA 50-50-102(5)]. MCA 50-50-202(3) provides for the exemption from licensure as a Retail Food Establishment for the following:

1. A gardener, farm owner, or farm operator who sells **raw and unprocessed farm products** at a farmer's market. Raw and unprocessed farm products are defined in 50-50-120(16) as "fruits, vegetables, and grains sold at a farmer's market in their natural state that are not packaged and labeled and are not:
 - (a) cooked;
 - (b) canned;
 - (c) preserved, except for drying;
 - (d) combined with other food products; or
 - (e) peeled, diced, cut, blanched, or otherwise subjected to value-adding procedures."
2. A person selling **baked goods** or **preserves** at a farmer's market. Baked goods are defined in MCA 50-50-102(1) as "breads, cakes, candies, cookies, pastries, and pies that are not potentially hazardous foods." Preserves are defined in MCA 50-50-102(15) as "processed fruit or berry jams, jellies, compotes, fruit butters, marmalades, chutneys, fruit aspics, fruit syrups, or similar products that have a hydrogen ion concentration (pH) of 4.6 or below when measured at 24 degrees C (75 degrees F) and that are aseptically processed, packaged, and sealed."

Other food items offered at Farmer's Markets are required to be approved and licensed as a Retail Food Establishment. Contact your county sanitarian for more information on the requirements for licensure.

IN SUMMARY: Only products that qualify as "Raw and unprocessed farm products", "Baked goods", and "Preserves" can be distributed at a 'Farmer's market' without a license from DPHHS.

Other food items offered at farmer's markets are required to be approved and licensed by DPHHS. Contact your county sanitarian for more information on the requirements for licensure.

A FEW RECOMMENDATIONS for local sanitarians:

- Meet with the Market Managers from the Farmer's Markets in your jurisdiction before the start of the market season each year. Review the market rules, and remind all of their responsibilities in state law.
- Visit each Farmer's Market at least once each year and be available to Market Managers to answer questions if and when they arise.
- Contact DPHHS Food and Consumer Safety Section if there are questions or concerns regarding a particular product or situation (406-444-2408) or go to our website at www.fcsh.mt.gov.
- Check the AERO website: <http://www.aeromt.org/food-ag/farmers-market/>.

FREQUENTLY ASKED QUESTIONS:

1. Question: *Are Salsas, Pickles, Salad Dressings, Herb-in-Oil/Vinegar Mixtures, Sauerkraut, Pepper Jelly, etc, considered to be "Preserves" and exempt from licensure for sales at farmer's markets?*

Answer: None of the products listed above qualify as "Preserves" as defined in 50-50 MCA, and as such are required to be processed by a known/inspected operator and usually require local approval and state licensure to distribute products at a farmer's market. Retail licensure would not be required of a known or licensed wholesale firm distributing shelf-stable/non-perishable products at retail.

2. Question: *Are Cream Puffs, Cream Pies, Pumpkin Pies, Custard Pies, Cream or Pudding Filled Pastries, Cheesecakes, considered "Baked goods" and exempt from licensure for sales at farmer's markets?*

Answer: All of these products would be considered to be "Potentially hazardous foods" as defined in state statute, and as such would require local approval and DPHHS licensure to distribute these products at farmer's markets.

3. Question: *I want to sell my processed Poultry/Meats at a farmer's market. What do I need to do?*

Answer: A retail food license is required from DPHHS to distribute these types of products at farmer's markets. It is recommended that you contact the state Department of Livestock Meat Inspection Bureau first to find out their requirements for slaughter and processing, and then contact your local sanitarian to receive information on their requirements to become a licensed retail meat market.

4. Question: *I want to sell my farm eggs at a farmer's market. What do I need to do?*

Answer: A retail food license is required from DPHHS to distribute these products at farmer's markets. Contact your county sanitarian for more information.